IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C. W. P. No. 18477 of 2006
Date of decision December 11, 2006

M/s Mukhtiar Singh and sons

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL AND
HON'BLE MR. JUSTICE H. S. BHALLA

Present:- Sh. Satpal Singh, Advocate
for Sh. G. S. Kaura, Advocate
for the petitioner.

Sh. S. S. Brar, Additional Advocate General, Punjab for respondent Nos. 1 to 3.

Sh. Govind Goel, Advocate
for respondent No.4.

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The petitioner has approached this Court challenging the order dated October 31, 2006 Annexure P-7 whereby the respondent had passed an order rejecting the claim of the petitioner for allotment of custom milling of the paddy. The aforesaid order has been passed on account of the fact that as per the reports submitted by D.M. Markfed, Moga, the premises of the mill where the petitioner is carrying out the milling operations is a defaulter and as such, it has been held that even an FIR is registered against the said Mill for shortage of stocks of paddy qua which a criminal case is pending in the Court of Judicial Magistrate, Moga.

On November 27, 2006 when notice of motion was issued by this Court, learned counsel for the petitioner had relied upon

clause (vii) of the Policy Annexure P-1 to contend that the petitioner is ready to pay the entire amount of the lessor firm and as such is entitled to allotment of the paddy.

The aforesaid clause, relied upon by the petitioner may be extracted as below:-

> *"If a police/court case/arbitration case is pending against the miller on account of embezzlement relating to custom milling or levy rice pertaining to any crop year. However, if the miler clears the default of the concerned agency along with penal interest at the rates for the relevant year(s) he may be considered for allotment without prejudice to the out-come of the FIR/Court Case/Arbitration Case pending against him."*

It is apparent from the perusal of the aforesaid Clause (vii) of the Policy Annexure P-1 that if a Police/Court case/Arbitration case is pending against the miler on account of embezzlement relating to custom milling or levy rice pertaining to any crop year and in case the miler clears the default of the concerned agency along with penal interest at the rates for the relevant years, his case may be considered for allotment without prejudice to the outcome of the FIR/Court case/Arbitration Case pending against him.

In view of the undertaking given by learned counsel for the petitioner on behalf of the petitioner, that he is ready to pay the entire amount of the lessor firm, subject to the outcome of the criminal case, we allow the present petition and quash the order Annexure P-7 dated October 31, 2006. We further direct that in case petitioner-firm pays the entire amount due and outstanding against the lessor firm, along with interest and

penal interest etc., in terms of clause (vii) of the Policy Annexure P-1, then the claim of the petitioner-firm for allotment of the custom milling of the paddy be considered in accordance with the said clause.

Necessary formalities be completed within one month from the date a certified copy of the order is received.

A copy of the order be given dasti on payment of usual charges.

(VINEY MITTAL)
JUDGE

(H.S.BHALLA)
JUDGE

December 11, 2006
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